

Office - Supreme Court, U.S.
FILED

JAN 30 1952

CHARLES ELMORE CROPLEY
CLERK

No. 431

LIBRARY
SUPREME COURT, U.S.

IN THE MATTER OF THE APPLICATION OF
TESSIM ZORACH AND ESTA GLUCK,
Petitioners-Appellants,

for an order pursuant to Article 78 of
the Civil Practice Act,

against

ANDREW C. CLAWSON, JR., MAXIMILIAN MOSS,
ANTHONY CAMPAGNA, HAROLD C. DEAN, GEORGE
A. TIMONE, AND JAMES MARSHALL, constitut-
ing the Board of Education of the City of
New York, and FRANCIS T. SPAULDING, Com-
missioner of Education of the State of New
York,

Respondents,

directing them to discontinue certain
school practices,

and against

THE GREAT NEW YORK COORDINATING COMMITTEE
ON RELEASED TIME OF JEWS, PROTESTANTS AND
ROMAN CATHOLICS,

Intervenor-Respondent.

BRIEF FOR THE STATE OF MAINE, AMICUS CURIAE

State of Maine
By Alexander A. LaFleur
Attorney General

IN THE MATTER OF THE APPLICATION OF

TESSIM ZORACH AND ESTA GLUCK,

Petitioners-Appellants,

for an order pursuant to Article 78 of
the CIVIL PRACTICE ACT,

against

ANDREW G. CLAUSON, JR., MAXIMILIAN MOSS,
ANTHONY CAMPACNA, HAROLD C. DEAN, GEORGE
A. TIMONE, AND JAMES MARSHALL, constitut-
ing the Board of Education of the City of
New York, and FRANCIS T. SPAULDING, Com-
missioner of Education of the State of New
York,

Respondents,

directing them to discontinue certain
school practices,

and against

THE GREATER NEW YORK COORDINATING COMMITTEE
ON RELEASED TIME OF JEWS, PROTESTANTS AND
ROMAN CATHOLICS,

Intervenor-Respondent.

BRIEF FOR THE STATE OF MAINE, AMICUS CURIAE

The State of Maine submits this brief in support of the constitutionality of section 3210 of the New York Educational Law, under which the State Commissioner of Education and the Board of Education of the City of New York are authorized to issue regulations to excuse children from school for one hour per week for religious education under the so called "released time" program.

The State of Maine, through one of the constitutional agencies, has sponsored released time religious education for many years, and believes that it involves no violation of the constitutional provision guaranteeing freedom of religion and forbidding the "establishment" of religion.

ARGUMENT

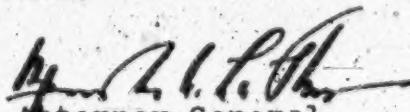
Maine joins the Appellees and other amici curiae in submitting that the judgment of the New York Court of Appeals should be affirmed on the ground that the statute and rules and regulations adopted pursuant thereto by the New York Commissioner of Education and the New York City Board of Education are constitutional and valid as against Appellant's attack on them.

Maine has a statute, Chapter 37, Section 129, Revised Statutes of Maine, 1944, which authorizes the program of release time for religious education to be implemented by organizations who through the wish of individual parents, have sought to establish a program of this nature.

Invalidation by this Court of the New York statute and the regulations promulgated pursuant thereto would seriously hinder the educational program as it has evolved in Maine. Since the decision in People of State of Illinois ex rel. McCollum v. Board of Education, 333 U.S. 203, 68 S. Ct. 461, 92 L. Ed. 648, Maine's program, and it is assumed those of other States, has been impaired to a great degree for fear of overstepping the boundaries, whatever they may be, as outlined in the McCollum decision regarding religious education and the first amendment to the United States Constitution. It is with this thought that we have felt it appropriate to make this short presentation in the present case.

CONCLUSION

For the reasons suggested in this brief and argued in the briefs of Appellee, as well as those of other Amici Curiae, Maine respectfully submits that the judgment under consideration and review by this Honorable Court be sustained.


C. L. P.
Attorney General
of Maine